

**CITY OF DULUTH**

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 14-051	Contact	Steven Robertson; 218 730 5295	
Application Type	Vacation of Street Easement (Alley)	Planning Commission Date	May 13, 2014	
Deadline for Action	Application Date	May 22, 2014	60 Days	N/A
	Date Extension Letter Mailed	May 22, 2014	120 Days	N/A
Location of Subject	516 South 69th Avenue West			
Applicant	Norman Opack and ViAnn Rusk	Contact	nopack@live.com	
Agent	Kay Bigga	Contact	kbigga@aol.com	
Legal Description				
Site Visit Date	N/A	Sign Notice Date	May 27, 2014	
Neighbor Letter Date	May 22, 2014	Number of Letters Sent	10	

Proposal

Applicant is proposing a vacation of an improved street and alley easements adjacent to existing residential property.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1/MU-N	Residential	Traditional Neighborhood/Preservation
South	R-1	Trail/Undeveloped	Preservation
East	R-1	Trail/Undeveloped/Residential	Preservation/Traditional Neighborhood
West	R-1	Railroad/Commercial	Traditional Neighborhood

Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements require a Planning commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the council.

Code requirements are found in UDC Section 50-37.6. The Planning Commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway, or easement proposed for vacation:

- 1) Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

III. G-1

Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

Governing Principle #1: Reuse previously developed lands. Governing Principle #7: Create and maintain connectivity.

The application was submitted on April 21, 2014, but was determined to be incomplete. The application (vacation exhibit) was revised and was considered a complete application on May 22, 2014.

On November 25, 2013, the City Council passed ordinance 13-069; this ordinance provides for the sale of Lots 1,2, 31, and 31 (Block 21) an Lots 1 and 2 (Block 20) of Hunter and Markell's Grassy Point Addition to Duluth to Norman Opack and Viann Rask.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

- 1) Applicant is proposing a vacation of an improved street and alley easements adjacent to existing residential property. Other than the applicant, the City (as titleholder of the parkland directly to the south of the proposed vacation) is the only other affected property owner.
- 2) The unimproved right of way easement is 66 feet wide (Natchez Street) and 16 feet wide (alley). There are no utilities located in the easement requested to be vacated.
- 3) This vacation, if approved, will not deprive any currently platted lots of access to a public right of way.
- 4) Staff believe this right of way is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city (as long as an easement is maintained); the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
- 5) No comments from the public, or public agencies, concerning the vacation. The City Engineering department, after closer review of the proposal, determined the City would not need a utility or trail easement.
- 6) Vacations of streets lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process, after City Council approval.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Staff recommends that the Planning Commission recommend approval to the City Council, based on the findings above, without conditions.

G-2

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning

PL 14-051

Vacation of Street

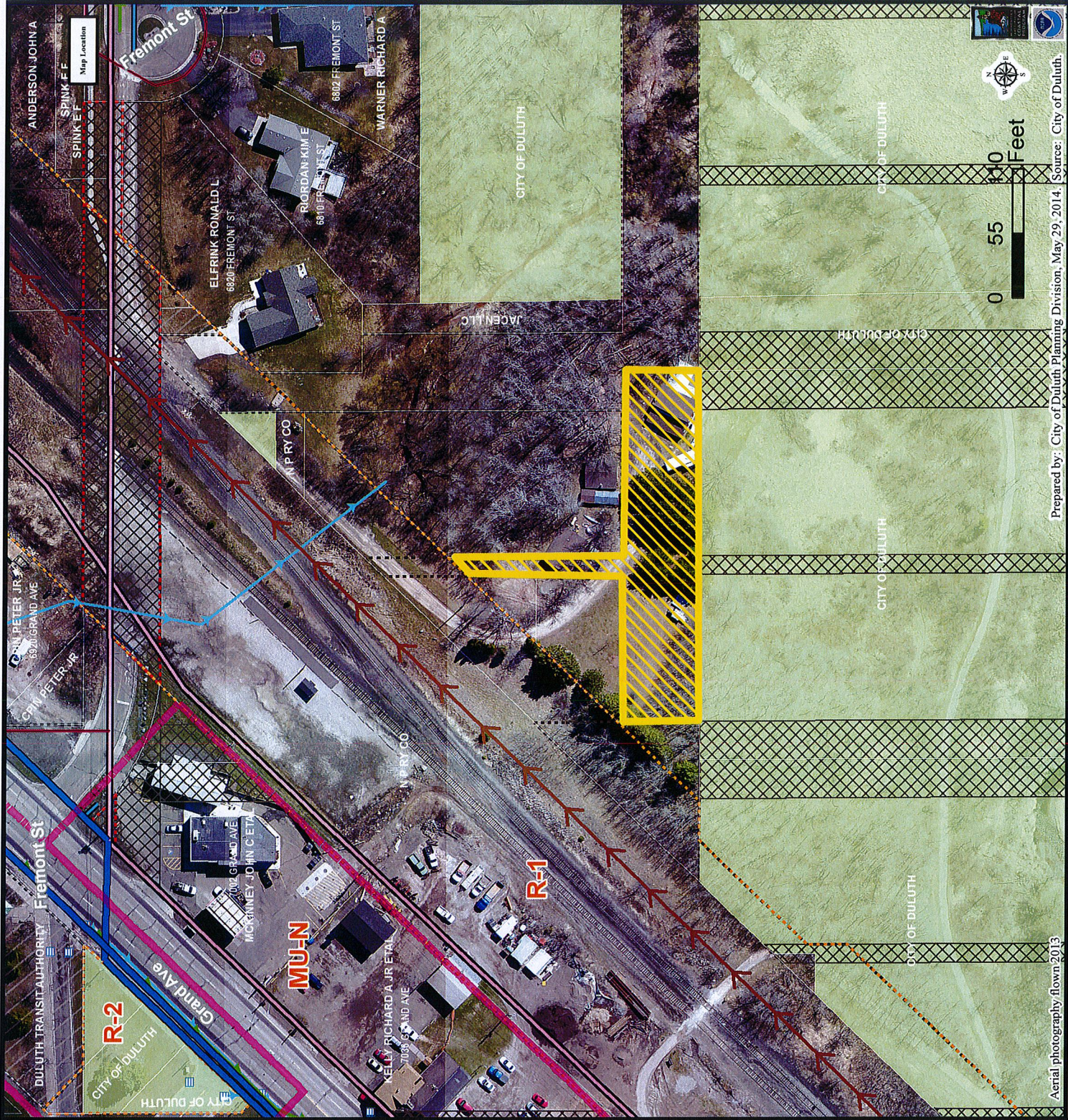
Natchez Street

Legend

- Zoning Boundaries
- Water Distribution System**
 - 30 - 60" Water Pipe
 - 16 - 24" Water Pipe
 - 4 - 6" Water Pipe
- Sanitary Sewer Collection System**
 - Sanitary Sewer Collector
 - Sanitary Sewer Interceptor
 - Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Gas Distribution Main**
 - 8" - 16" Gas Pipes
 - 4" - 6" Gas Pipes
 - 0" - 4" Gas Pipes
- Storm Sewer Collection System**
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
 - Discharge Points
- Right-of-Way Type**
 - Road or Alley ROW
 - Vacated ROW
- Easement Type**
 - Utility Easement
 - Other Easement

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Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, May 29, 2014, Source: City of Duluth.



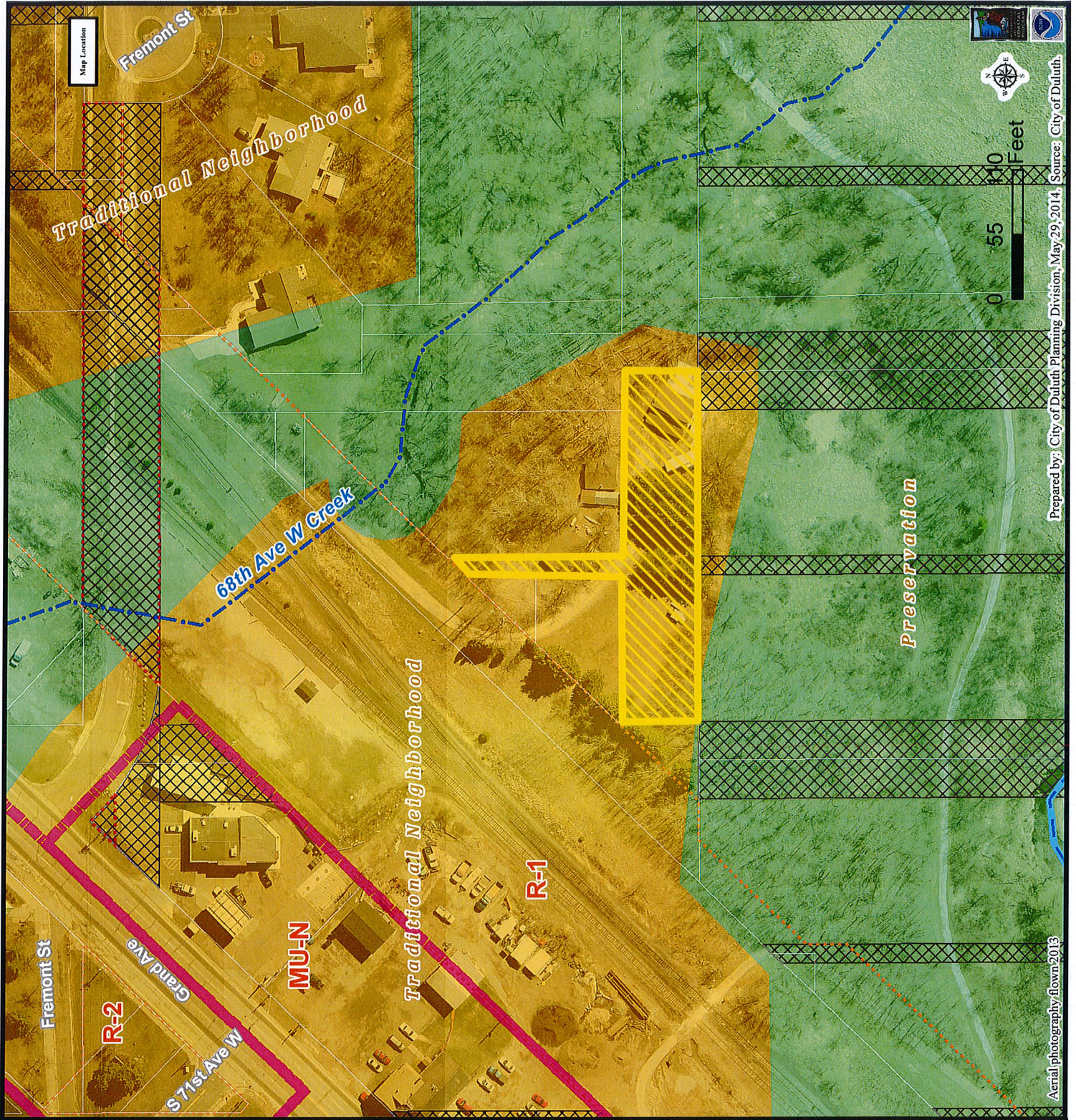
City Planning
PL 14-051
Vacation of Street
Natchez Street

Legend

- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)
- Vacated ROW
- Easement Type
- Utility Easement
- Other Easement
- Future Land Use
- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

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PL 14-051

Vacation of Street

Natchez Street

**Map Location**

Prepared by: City of Duluth Planning Division, May 29, 2014. Source: City of Duluth.

Aerial photography flown 2013

Legend



Subdivision Boundaries

Vacated ROW

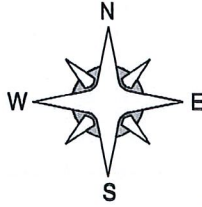
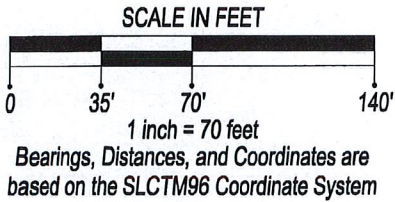
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Vacation Exhibit

in the E½ of the SW¼ of Section 13, T49N, R15W, St. Louis County, Minnesota



70th Avenue West

EAST LINE 70TH AVENUE WEST

Railroad

Alley

HUNTER & MARKWELL'S
GRASSY POINT ADDITION
TO DULUTH

BLOCK 18

Natchez Street
(fka Seventh Street)

H&M GPA BLOCK 21

69th Avenue West

CENTERLINE 69TH AVENUE WEST

FREEMONT POINT

FREEMONT POINT
PHASE III

BLOCK 2

H&M GPA BLOCK 19

Portion to be vacated is shown as :

Legal Description:

That portion of Natchez Street (fka Seventh Street) in the plat of Hunter and Markell's Grassy Point Addition to Duluth which lies between the east line of 70th Avenue West and the centerline of 69th Avenue West.

AND

The entire Alley in Block 18, Hunter and Markell's Grassy Point Addition to Duluth.

Approved by the City Engineer of Duluth, MN

Date: _____ by: _____

I HEREBY CERTIFY THAT THIS PLAN,
SPECIFICATION, OR REPORT WAS PREPARED BY
ME OR UNDER MY DIRECT SUPERVISION AND
THAT I AM A DULY LICENSED LAND SURVEYOR
UNDER THE LAWS OF THE STATE OF MINNESOTA.

Date: 5/20/2014

DAVID SZYSZKOSKI
MINNESOTA LICENSE NO. 47046



4560 Norway Pines Place
Duluth, MN 55811
218-727-8796
tkda.com
Job Number: L4627

Vacation Exhibit
in Hunter & Markwells
Grassy Point Addition
For : Norman Opack

6-7

THAT PORTION OF NATCHEZ STREET IN THE PLAT OF HUNTER MARKELLS GRASSY
POINT ADDITION WHICH LIES BETWEEN THE EAST LINE OF 70TH AVENUE WEST
AND THE CENTER LINE OF 69TH AVENUE WEST.

AND

THE ALLEY IN BLOCK 18, HUNTER MARKELLS GRASSY POINT ADDITION.

RECEIVED APR 21 2014

2-8
C-9

Petition to Vacate Street, Alley, or Utility Easement

Name: Norman M. Orack and Vi Ann Rast

Description of street, alley, or easement to vacate: That portion of Natchez Street in the Plat of Hunter Macell's Grassy Point Addition which lies between the East line of 20th Ave and the Center line of 20th Ave West and the 11th Block is

My request for this vacation is to (indicate purpose of vacation):

Our house was previously built on the "paper" street

The City of Duluth will not need this street, alley, or easement in the future because:

The "paper" street and alley have never been used and already vacated elsewhere

PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Council to vacate the street, alley, or easement described in the attached legal description.

This petition is made upon the following facts and reasons (Identify the factual basis and reasons supporting the petition) ¹:

Our house was previously built on the "paper" street and alley. We are correcting this problem as part of a plan with the City to bring our property into compliance.

This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signatures of these persons is attached hereto and made a part hereof. ²

The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 50-37.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.

Signature(s): Norman M. Orack / Vi Ann Rast

Date: 4/13/14

Notice: This is public data.

¹ In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

² If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for another owner unless legally authorized to do so, i.e. power of attorney, trustee, or court approved guardianship or conservatorship.

RECEIVED APR 21 2014

6-9

Exhibit From
13-069
Nov 25, 2013

Other Trails (City & DNR)

Multi-Purpose

X-Country

Dilina

IMOUS

ATUS

th has tried

accuracy or reliability recorded

shown and

.....

01-9

